REMARKS

This reply is in response to the Office Action mailed on November 16, 2009. In view of the following remarks, Applicant respectfully requests withdrawal of the present Office Action, and reconsideration and allowance of the claims.

It is noted that all differences between the cited reference(s) and each claim may not necessarily be recited herein. This is not an admission on the part of the Applicant that Applicant concurs with the Examiner's assertions regarding the patentability of said claims over the cited reference(s). Applicant, in some cases, may simply choose to highlight particular differences between the claims and the reference(s). Such differences may render any differences not explicitly addressed moot.

1. Summary of the telephonic interview

Applicant thanks Examiner Susan Rayyan for the courtesy of a telephonic interview on January 29, 2010. Henry Gabryjelski, Reg. No. 62,828 and Bryan Webster, Reg. No. 47,217 were present for the Applicant, and Examiner Rayyan was present for the USPTO.

The improper finality of the Office Action was discussed. **Agreement was reached that the finality of the Office Action was improper, that the Office Action would be withdrawn, and that a replacement Office Action would be provided.**

In addition, the Examiner requested an After-Final response as a formal matter to deal with internal procedures. Because the Office Action is

outstanding, the Examiner indicated a response of some type is now required before the withdrawal could occur. **Agreement was reached that Applicant would provide an After-Final Response to enable the withdrawal of the present Office Action.**

No agreement was reached as to patentability of the discussed claims.

Applicant thanks Examiner Rayyan for the courtesies extended to him throughout the call.

2. Improper finality of the Office Action

The examiner agreed that the references used throughout the history of this application fail to show a prima facie case of obviousness for at least two features of Claims 13 and 28. See Examiner Interview Summary Record of 2009-06-16.

However, even though a prima facie case was not made, in the interests of furthering prosecution, Applicant voluntarily submitted response with amendments multiple times.

In the amendment and reply filed June 30, 2009, Applicant submitted an amendment which broadened Independent Claim 13. Independent Claim 13 was broadened by amending the term "replacement" to "refinement" (as found in the original claims), and by removing a recited element. See page 5/31 of the response filed 2009-06-30. It is well known that a broader claim encompasses the narrower claim, and thus the same grounds of rejection may be used on a broader claim as the corresponding narrower claim.

Under present practice, a second or subsequent action on the merits shall be final, except where the examiner introduces **a new ground of rejection** that is **not necessitated by applicant's amendment** of the claims [or a newly submitted IDS]. See MPEP 706.07(a).

Therefore, because Claim 13 was broadened, the same grounds of rejection could be applied. However, because a new ground of rejection was applied, **applicant's amendment did not necessitate the new ground of rejection.** Therefore, because the current rejection required new art (and thus a new ground of rejection), the finality of the Office Action was improper.

3. Failure to consider rebuttal arguments and evidence

"Office personnel should consider all rebuttal arguments and evidence presented by applicants." MPEP 2145.

Applicant respectfully notes that the feature cited in Claim 13 was present in the originally filed application **over six years ago.** Furthermore, Applicant provided **substantially the same or similar arguments as to why Gross does not teach this feature** since at least the reply filed 2008-06-19. Because these arguments were filed **over 19 months ago**, the Office failed to consider the rebuttal arguments and evidence presented by the applicants between 2008-06-19 and the interview of 2009-06-11. Because the Office Actions had failed to address these arguments, Applicant prosecution of the present application was detrimentally prejudiced.

4. Request to provide replacement Office Action

Because the Office Actions had failed to address these arguments, and further because the Office Actions failed to make a prima facie case of obviousness, Applicant has been denied the ability to respond to the new grounds of rejection. Accordingly, Applicant respectfully requests immediate withdrawal of the present Office Action, and a replacement non-final Office Action in accordance with MPEP 2145 and 706.07(a).

Applicant conducted an interview with the USPTO, as outlined above. Accordingly, Applicant submits the present response for the reasons detailed in the Interview Summary above. During that interview, agreement was reached that the present Office Action would be withdrawn and a replacement non-final Office Action would be provided. Applicant respectfully requests such withdrawal and replacement.

5. Application of newly cited art

Independent claims 1 and 12 recite, *inter alia*, "*defining one or more query related character patterns that do not include an explicit indicator of query submission, wherein at least one of the one or more query related character patterns is a string of characters followed by a predetermined time delay before additional characters are entered; ... providing the user with one or more suggested query refinement options each time a defined query related character pattern is detected without requiring the user to provide the explicit indicator of query submission*".

Independent claims 13 and 20 recite, *inter alia*, "*detecting entry of a query defining word by the user without requiring the user to provide the explicit indicator of query submission; and providing the user with an updated query result each time entry of a query defining word is detected without requiring the user to provide the explicit indicator of query submission, wherein the query defining word includes a string of characters followed by a predetermined time delay before additional characters are entered by the user*".

Independent claims 21 and 24 recite, *inter alia*, "*detecting entry of a completed query defining word by the user, the detecting based on a predetermined time delay following the query defining characters before additional characters are entered by the user; ... providing the user with query refinement options related to the query defining word without requiring the user to provide the explicit indicator of query submission*".

Independent claim 25 recites, *inter alia*, "*a query refinement option list including at least one user selectable query refinement option that is incrementally updated as a query is entered into the query entry text box without requiring the user to provide the explicit indicator of query submission, wherein the incremental updating of the query refinement option list is based on a predetermined time delay following the entry of query defining characters before additional characters are entered by the user*".

Independent claim 30 recites, *inter alia*, "*defining one or more query related character patterns that do not include an explicit indicator of query submission, wherein at least one of the one or more query related character patterns is a string of characters followed by a predetermined time delay before*

additional characters are entered; ... providing the user with query refinement options related to the detected defined query related character pattern without requiring the user to provide the explicit indicator of query submission".

Applicant notes that the Office Action cited US Patent Number 6434547 to David J. Mishelevich et al. (hereinafter "**Mishelevich**") for each of independent claims 1, 13, 21, 25, and 30. See Office Action pages 4-5, 8-9, 14-15, 18, and 26. In each of these cases, the Office Action asserted that "Mishelevich does teach a predetermined time delay", citing to Column 10 line 65 through Column 11 line 22.

Mishelevich discloses a system with multiple predefined data entry locations, wherein the system moves to the next determined data entry location after a period of time set by a user. See Mishelevich Column 3, lines 35-49.

The Office Action asserts only that Mishelevich "teaches a time delay". However, not only must each of the claims be considered as a whole, each of the pieces of prior art must also be considered as a whole. See MPEP 2141.02.

When considered as a whole, Mishelevich discloses that detection of a determined time period indicates that **data entry** (for a particular data entry location) **is complete**. See, for example, Mishelevich Column 3 lines 35-49 (proceed to next determined data entry location), Column 8 lines 58-59 (once data entry for a particular row is complete), Column 8 lines 62-66 (user given predefined time to enter data before system identifies the data entry as being complete), Column 9 lines 1 ("the time period for data entry"), and Column 10 line 63 through Column 11 line 8 (move to the next section, next data input

area, indicates "does not want to provide further information for that data entry location").

In contrast, Claim 1 recites that detecting "*a string of characters followed by a predetermined time delay before additional characters are entered*" is used to "*provid[e] the user with one or more suggested* ***query refinement options***". Mishelevich fails to teach or suggest at least this feature. None of the cited art, alone or in combination, cures this deficiency. Each of the independent claims currently recites a similar feature that is neither taught nor suggested by any of the cited art, alone or in combination.

Because the deficiencies of Mishelevich are not cured by the addition of any of the cited references, the references fail to teach or suggest each of the elements of the independent claims. Accordingly, the rejection of each of the independent claims should be withdrawn.

Each of the dependent claims depend at least one independent claim, and are allowable at least by virtue of this dependency. Accordingly, the rejection of these claims should also be withdrawn.

6. CONCLUSION

Accordingly, in view of the above amendment and remarks it is submitted that the claims are patentably distinct over the prior art and that all the rejections to the claims have been overcome.

Applicant thanks the Examiner for agreeing to withdraw the present Office Action. Reconsideration and reexamination of the above Application is requested. Based on the foregoing, Applicants respectfully requests that the

pending claims be allowed, and that a timely Notice of Allowance be issued in this case. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,

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Date: January 29, 2010

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Rimma N. Oks
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